

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:08-cr-15

THIS MATTER is before the Court upon motion of the defendant pro se for a reduction of sentence based on the retroactive amendments to the United States Sentencing Guidelines relating to crack cocaine triggered by the Fair Sentencing Act of 2010. (Doc. No. 92).

The defendant was sentenced to 120 months' imprisonment pursuant to the mandatory minimum sentence prescribed in 21 U.S.C. § 841(b)(1)(B), based on his guilty plea to Count Five charging possession with intent to distribute 50 grams or more of a mixture and substance containing cocaine base.¹ (Doc. No. 1: Indictment; Doc. No. 40: Plea Agreement; Doc. No. 78: Judgment; Doc. No. 79: Statement of Reasons). Accordingly, the change in the guidelines does not affect the defendant's sentence. Neal v. United States, 516 U.S. 284, 296 (1996) (retroactive amendment to guidelines does not alter statutory mandatory minimum); United States v. Hood, 556 F.3d 226, 233 (4th Cir. 2009).

IT IS, THEREFORE, ORDERED that the defendant's motion is **DENIED**.

¹ The government orally withdrew the 21 U.S.C. § 851 notice during the sentencing hearing. (Doc. No. 79: Statement of Reasons at 4).

The Clerk is directed to certify copies of this order to the defendant, the Community Defender, the United States Attorney, the United States Marshals Service, and the United States Probation Office.

Signed: May 24, 2012



Robert J. Conrad, Jr.
Chief United States District Judge

